

Docket No.: 101896-719
(PATENT)

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Edward B. Zalenski et al.

Application No. 10/750,173

Confirmation No. 5023


Filed: December 31, 2003

Art Unit: 3775

For: INSERTER INSTRUMENT AND IMPLANT
CLIP

Examiner: Michael J. Araj

I hereby certify that this correspondence is being filed via EFS Web on the date shown below.

Dated: August 15, 2011 Signature: 
(Ronald E. Cahill)

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. §1.705(b)

In response to the Patent Term Adjustment set forth on the Notice of Allowance mailed in the above-referenced application on May 16, 2011, Applicant submits this Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b).

This request is being submitted no later than the payment of the issue fee and after the date of mailing of a Notice of Allowance, and therefore, complies with the deadline specified in 37 C.F.R. § 1.705(b).

(1) Fee Set Forth in § 1.18(e)

It is believed this application is required due to no error on the part of the Applicant, and that no fee is required. However, in the event a fee is determined to be required, the

Commissioner is authorized to charge the fee set forth in §1.18(e) and any other fees that may be due to Deposit Account No. 141449, under Attorney Docket No. 101896-719.

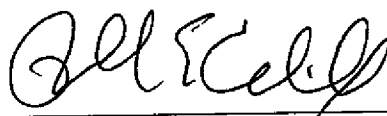
(2) Statement of Facts

- (i) Applicant has reviewed the USPTO calculation of the Patent Term Adjustment (PTA) of 1816 days as found in the Notice of Allowance issued for the above-referenced application, and believes that the PTA should actually be 1427 days;
- (ii) Applicant believes that 389 of the PTA days calculated by the PTO actually overlap the 1305 days awarded to the applicant for a successful appeal, and therefore, the PTA should be reduced by the 389 days;
- (iii) Applicant confirms that this application is not subject to a Terminal Disclaimer, and;
- (iv) There were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in §1.704 as far as is known to Applicant which would further effect the Patent Term.

Conclusion

For the reasons set forth above, it is believed that the PTA calculated for this application should be corrected to 1427 days.

Respectfully submitted,



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Dated: August 15, 2011